

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**UNITED STATES OF AMERICA,**

**Plaintiff**

**V.**

**BOSTON AND MAINE CORP.,**

**Defendant/Counterclaim and IT  
Third-Party Plaintiff,**

### Third-Party Plaintiff

**V.**

**TOWN OF AYER, MASSACHUSETTS,**

**Third-Party Defendant.**

**Civil Action No. 13-10087**

**UNITED STATES' UNOPPOSED  
MOTION TO ENTER CONSENT DECREE**

The United States moves to enter the proposed Consent Decree to resolve all pending claims, counter-claims, and third-party claims in this matter. Under the proposed Consent Decree, Boston and Maine (“B&M”) shall reimburse the United States \$2.4 million for environmental clean-up work at a portion of Fort Devens, formerly owned and operated by B&M as a railroad roundhouse, in Ayer, Massachusetts (the “Site”). B&M’s payment of \$2.4 million will be made in equal installment payments over three years, plus interest. Except for a 3% withholding for administrative or enforcement costs incurred by the Department of Justice, the funds will be deposited in the Environmental Restoration Account of the United States Department of the Army (“the Army”) for future environmental clean-up work at other

properties on behalf of the Army. 10 U.S.C. § 2703, ECF No. 146-1, Consent Decree (“CD”) ¶ 7.

The proposed Consent Decree also resolves all third-party claims against the Town of Ayer, Massachusetts, without imposing any obligations on the Town.

The United States published a notice of the proposed Consent Decree in the *Federal Register* at 84 Fed. Reg. 10123, effective March 19, 2019. The United States received no comments on the proposed Consent Decree, and B&M and the Town consent to entry of the Consent Decree. ECF No. 146-1, CD ¶ 34. Therefore, this motion to enter the proposed Consent Decree is unopposed, and, for all the reasons set forth in the accompanying memorandum of law, the United States respectfully requests that the Court sign the Consent Decree on Page 10 and enter it as a final judgment.

Respectfully submitted,

ELLEN M. MAHAN  
Assistant Section Chief  
Environmental Enforcement Section

Date: April 22, 2019

/s/ C. A. Fiske  
CATHERINE ADAMS FISKE  
Environmental Enforcement Section  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
One Gateway Center – Suite 616  
Newton, MA 02458  
(617) 450-0444

BENJAMIN R. CARLISLE  
Environmental Defense Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044  
(202) 514-9771  
[benjamin.carlisle@usdoj.gov](mailto:benjamin.carlisle@usdoj.gov)

ANDREW E. LELLING  
United States Attorney  
District of Massachusetts

BRIAN LaMACCHIA  
Assistant United States Attorney  
Office of the United States Attorney  
District of Massachusetts  
One Court House Way  
Boston, MA 02110

OF COUNSEL

Major Josiah Griffin  
Litigation Attorney  
U.S. Army Legal Services Agency  
Environmental Law Division  
9275 Gunston Rd, Suite 4304  
FT Belvoir, VA 22060-5546

**CERTIFICATE OF SERVICE**

I, Catherine Adams Fiske, hereby certify that on April 22, 2019 a true and accurate copy of the above document, which was filed via the court's ECF system, will be sent electronically by the ECF system to the registered participants as identified on the Notice of Electronic Filing.

/s/ C. A. Fiske

Catherine Adams Fiske